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AUG 18 2008

In re Patent No. 7,172,769	:	
KARARLI et al.	:	LETTER REGARDING PATENT
Issue Date: February 6, 2007	:	TERM ADJUSTMENT AND
Application No. 10/031,898	:	NOTICE OF INTENT TO
Filed: July 30, 2002	:	ISSUE CERTIFICATE OF
Atty Docket No. PC31214	:	CORRECTION

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed March 26, 2007. Patentee requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is granted to the extent indicated herein.

Patentee is given **TWO (2) MONTHS** from the mailing date of this letter to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **211 days**.

On February 6, 2007, the above-identified application matured into U.S. Patent No. 7,172,769, with a revised patent term adjustment of 467 days. On March 26, 2007, patentee submitted the instant comment. Patentee directs the Office's attention to the filing of the declaration on December 9, 2002, in response to the Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)

("Notification of Missing Requirements"), and the filing of a Request for Continued Examination (RCE) on October 12, 2005.

The application history has been reviewed and it has been determined that the determination of patent term adjustment under 35 U.S.C. 154(b) of 467 days is incorrect.

Pursuant to 37 CFR 1.703(a)(1), the period of adjustment of patent term due to the failure of the Office to take action within a specified time frame is the sum of the following periods:

- (1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first[.]

The date of fulfillment of all 35 U.S.C. 371 requirements is December 9, 2002. Therefore, the date of December 9, 2002, and not July 30, 2002, should have been used for calculating adjustment of the patent term under 37 CFR 1.702(a)(1). Accordingly, the period of adjustment is 309 days, the number of days in the period beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, February 10, 2004, and ending on the date of mailing of the action under 35 U.S.C. 132, December 14, 2004. See 37 CFR 1.702(a)(1). Thus, the period of adjustment of 441 days is being removed and the period of 309 days is being entered.

With regard to the filing of the declaration on December 9, 2002, in response to the Notification of Missing Requirements, the Office concludes that patentee failed to engage in reasonable efforts to conclude processing of this application. The Office mailed a Notification of Missing Requirements on May 7, 2002. Applicants filed their response on December 9, 2002, in excess of the three-month period from the mailing date of the Notification of Missing Requirements. See 37 CFR 1.704(b). Accordingly, the period of adjustment should have been reduced by 124 days, the number of days in the period beginning on the day after the date that is three months after the date of

mailing of the Notification of Missing Requirements, August 8, 2002, and ending on the date the reply was filed, December 9, 2002.

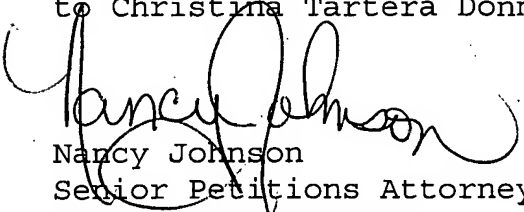
With regard to the filing of the Request for Continued Examination (RCE) on October 12, 2005, a review of the application history confirms that the period of adjustment under 37 CFR 1.704(b) was correctly determined as zero (0) days. The RCE was filed as the response to the notice of allowance in lieu of the payment of the issue fee. Further, the RCE of October 12, 2005, was filed within the three-month period from the mailing date of the notice of allowance on September 27, 2005.

Furthermore, the term of the patent was properly adjusted pursuant to 37 CFR 1.702(a)(2) by 80 days, counting the number of days beginning on the day after the date that is four months after the RCE was filed, February 13, 2006, and ending on the mailing date of the nonfinal Office action, May 3, 2006.

In view thereof, the revised Patent Term Adjustment is 211 days.

As this letter was submitted as an advisement to the Office of an error in patentee's favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks patentee for their good faith and candor in bringing this to the attention of the Office.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell at (571) 272-3211.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,172,769 B2

DATED : Feb. 6, 2007

INVENTOR(S) : Kararli et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (467) days

Delete the phrase "by 467 days" and insert – by 211 days--